

### Remarks

Claim 15 reads as follows:

15. A lithium battery which includes the electrolyte of claim 1.

Claim 1 reads as follows:

1. An electrolyte for a lithium battery, said electrolyte comprising:

a non-aqueous solvent; and

a salt mixture, said salt mixture comprising an alkali metal electrolyte salt and an additive salt having an anion of a mixed anhydride of oxalic acid and boric acid.

Extracts from 37 CFR 1.75(c) and MPEP 608.01(n) are repeated below for your convenience:

#### 37 CFR 1.75 Claim(s).

(c) One or more claims may be presented in dependent form, referring back to and further limiting another claim or claims in the same application.... (emphasis added)

#### 608.01(n) Dependent Claims

### II. TREATMENT OF IMPROPER DEPENDENT CLAIMS

The initial determination, for fee purposes, as to whether a claim is dependent must be made by persons other than examiners; it is necessary, at that time, to accept as dependent virtually every claim which refers to another claim, without determining whether there is actually a true dependent relationship. The initial acceptance of a claim as a dependent claim does not, however, preclude a subsequent holding by the examiner that a claim is not a proper dependent claim....

While Claim 15 does refer to the electrolyte Claimed in Claim 1, Claim 15 is drawn to a battery that includes the electrolyte of Claim 1. Claim 1 is drawn to an electrolyte which is a novel composition of nature and Claim 15 is drawn to a battery which is a system that includes the electrolyte as an element. Claim 15 is not a Dependent Claim in that it does not further limit Claim 1.


There is no objection in MPEP 608.01(m) "Form of Claims" to the presentation of Claim 15 in the form presented; however, the categorization of Claim 15 as a Dependent Claim appears to be incorrect.

In Applicant's Fee Transmittal, Applicant counted Claim 15 as an Independent Claim. Since Applicant's Attorney believes the total of Independent Claims to be 5 which is greater than 3, I authorized payment of a Filing Fee including payment for 2 Additional Independent Claims, which equaled 2 times \$84 or \$168. OIPE recalculated the Fee Due as the Fee for 1 Additional Claim which equaled 1 times \$84 or \$84. The correct categorization of Claim 15 as an Independent Claim will affect the Fee Due and should result in charging Deposit Account 19-2201 an additional Filing Fee of \$84 for the 5<sup>th</sup> Independent Claim.

Thank you for your assistance. The Commissioner is authorized to charge Deposit Account 19-2201 the additional \$84 for the extra Independent Claim and any other amount appropriate for this request.

Respectfully submitted,

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DATE

  
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